# IN THE UNITED STATES DISTRICT COURT
## FOR THE WESTERN DISTRICT OF PENNSYLVANIA

STEVEN INGRAM,                    )
                                  )    2:16cv1191
        Plaintiff,          )    Electronic Filing
                                  )
v.                                )    Judge David Stewart Cercone
                                  )
SUPERINTENDENT LANE and C/O       )
MILLER,                           )
                                  )
        Defendants.         )

## MEMORANDUM ORDER

This prisoner civil rights case was commenced on August 9, 2016, and was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges. Upon Plaintiff's compliance with the statutory requirements, his motion to proceed in forma pauperis was granted on October 31, 2016. (ECF 6).

Following the close of discovery, the parties filed cross motions for summary judgment. (ECF 97 and 104). On May 22, 2018, Magistrate Judge Eddy filed a Report and Recommendation (ECF 129) recommending that the motions be denied as genuine issues of material fact exist which preclude the granting of summary judgment. The parties were served with the Report and Recommendation. Plaintiff's request for an extension of time in which to file objections was granted, and the parties were given an extension until June 27, 2018, to file any written objections. With no written objections to the report being filed, the Court on July 10, 2018, denied the motions for summary judgment and adopted the report and recommendation as the opinion of the Court. (ECF 135).

On that same day, due to Plaintiff's release from incarceration,[1] the magistrate judge ordered Plaintiff, no later than July 27, 2018, to file a new motion to proceed in forma pauperis and to file a Notice with the Court indicating whether he intended to continue to pursue this action. (ECF 136). Plaintiff failed to respond in any manner to the Order or to request an extension of time to do so.

On August 6, 2018, the magistrate judge issued an Order to Show Cause ordering Plaintiff to show cause by August 21, 2018, why this action should not be dismissed for his failure to prosecute and for Plaintiff's non-compliance with Court Orders. (ECF 137). Plaintiff failed to respond to the Order to Show Cause.

On August 22, 2018, the magistrate judge issued a Report and Recommendation, consistent with Show Cause Order, and pursuant to Poulis v. State Farm Fire & Cas. Co., 747 F.2d 862 (3d Cir. 1984), recommending that the case be dismissed without prejudice for failure to prosecute. Plaintiff was served with the report and recommendation at his listed address of record and was advised his objections to the report and recommendation were due by September 10, 2018. To date, Plaintiff has failed to file any objections and has not sought an extension of time in which to do so.

The Court has reviewed the matter and concludes that the Report and Recommendation correctly analyzes the issues and makes a sound recommendation. Accordingly, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

---

1 At the time Plaintiff commenced this lawsuit he was an inmate in the custody of the Pennsylvania Department of Corrections. On May 25, 2018, Plaintiff notified the Court that he was being released from DOC custody and effective May 31, 2018, all mail should be sent to his home address. (ECF 131).

**AND NOW**, this 16th day of September, 2018;

Because Plaintiff has made no effort to move this case forward and has been non-compliant with a number of the Court's Orders, the Court agrees with the recommendation that the majority of the <u>Poulis</u> factors weigh heavily in favor of dismissal, it is, therefore,

**ORDERED** that this case is **DISMISSED WITHOUT PREJUDICE.**

**IT IS FURTHER ORDERED** that the Report and Recommendation filed on August 22, 2018 (ECF 138) is **ADOPTED** as the opinion of the Court.

The Clerk of Court is directed to mark this case **CLOSED**.

_____
David Stewart Cercone
Senior United States District Judge

cc: Steven Ingram
  30 South Blainsport Rd.
  Reinholds, PA 17569
  (*Via First Class Mail*)

  Sandra A. Kozlowski, Esquire
  (*Via CM/ECF Electronic Mail*)